



मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 299]

भोपाल, गुरुवार, दिनांक 23 जुलाई 2015—श्रावण 1, शक 1937

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 23 जुलाई 2015

क्र. 5076-212-इक्कीस-अ (प्रा.).—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, मध्यप्रदेश श्रम विधियां (संशोधन) और प्रकीर्ण उपबंध विधेयक, 2015 (क्रमांक 11 सन् 2015) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्द्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
राजेश यादव, अपर सचिव.

MADHYA PRADESH BILL
No. II OF 2015

THE MADHYA PRADESH LABOUR LAWS (AMENDMENT) AND
MISCELLANEOUS PROVISIONS BILL, 2015

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MADHYA PRADESH BILL
No. 11 OF 2015

**THE MADHYA PRADESH LABOUR LAWS (AMENDMENT) AND
MISCELLANEOUS PROVISIONS BILL, 2015**

A Bill further to amend the—

- (i) Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (No. 27 of 1996);
- (ii) Building and Other Construction Workers' Welfare Cess Act, 1996 (No. 28 of 1996);
- (iii) Contract Labour (Regulation and Abolition) Act, 1970 (No. 37 of 1970);
- (iv) Factories Act, 1948 (No. 63 of 1948);
- (v) Industrial Disputes Act, 1947 (No. 14 of 1947);
- (vi) Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (No. 30 of 1979);
- (vii) Motor Transport Workers Act, 1961 (No. 27 of 1961).

in their application to the State of Madhya Pradesh and to make miscellaneous provisions regarding other Labour Laws.

Be it enacted by the Madhya Pradesh Legislature in the sixty-sixth year of the Republic of India as follows:—

**PART I
PRELIMINARY**

1. (1) This Act may be called the Madhya Pradesh Labour Laws (Amendment) and Miscellaneous Provisions Act, 2015.

Short title and commencement.

(2) It shall come into force from the date of its publication in the Madhya Pradesh Gazette.

**PART II
AMENDMENT OF THE BUILDING AND OTHER CONSTRUCTION WORKERS
(REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 1996**

2. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (No. 27 of 1996) (hereinafter in this Part referred to as the principal Act) shall in its application to the State of Madhya Pradesh be amended in the manner hereinafter provided in this Part.

Amendment of Central Act No. 27 of 1996 in its application to the State of Madhya Pradesh.

3. In the principal Act, in Section 7, after sub-section (3), the following sub-section shall be inserted, namely:—

Amendment of Section 7.

“(3A) If no adverse order is passed in regard to registration of establishment by the Registering Officer within the prescribed period from the date of submission of application, then the registration shall be deemed to be duly granted.”.

PART III
AMENDMENT OF THE BUILDING AND OTHER CONSTRUCTION WORKERS
WELFARE CESS ACT, 1996

Amendment of
Central Act No. 28
of 1996 in its
application to the
State of Madhya
Pradesh.

4. The Building and Other Construction Workers' Welfare Cess Act, 1996 (No. 28 of 1996) (hereinafter in this Part referred to as the principal Act) shall in its application to the State of Madhya Pradesh be amended in the manner hereinafter provided in this Part.

Amendment of
Sections 3 and 11.

5. In the principal Act,—

(i) in Section 3, after sub-section (1), the following sub-section shall be inserted, namely:—

(1A) Notwithstanding anything contained in sub-section (1), costs incurred on purchase and transportation of plant and machinery meant to be used in a factory and such other costs as may be specified by notification issued by the State Government shall be excluded from the cost of construction incurred by an employer.”;

(ii) in Section 11, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Notwithstanding anything contained in the rules made under this Act, any employer aggrieved by an order of assessment made under Section 5 or by an order imposing penalty under Section 9 may, within such time as may be prescribed, appeal to such appellate authority in such form as may be prescribed and in such manner as may be specified by the State Government.”.

PART IV
AMENDMENT OF THE CONTRACT LABOUR (REGULATION AND ABOLITION)
ACT, 1970

Amendment of
Central Act No. 37
of 1970 in its
application to the
State of Madhya
Pradesh.

6. The Contract Labour (Regulation and Abolition) Act, 1970 (No. 37 of 1970) (hereinafter in this Part referred to as the principal Act) shall in its application to the State of Madhya Pradesh be amended in the manner hereinafter provided in this Part.

Amendment of
Sections 7 and 13.

7. In the principal Act,—

(i) in Section 7, after sub-section (2), the following new sub-section shall be inserted, namely:—

“(3) Upon submission of an application complete in all respects, in accordance with sub-section (1), the establishment in respect of which such application is made shall be deemed to be duly registered if the registering officer fails to pass an order either granting or refusing or objecting to grant or amend the registration within a period of 30 days from the date of submission of application.”;

(ii) in Section 13, after sub-section (3), the following new sub-section shall be added, namely:—

“(4) Upon submission of an application complete in all respects in accordance

with sub-section (1), the contractor in relation to an establishment in respect of which such application is made shall be deemed to be duly licensed if the licensing officer fails to pass an order either granting or refusing or objecting to grant or renew or amend the license within a period of 30 days from the date of submission of application.”.

PART V AMENDMENT OF THE FACTORIES ACT, 1948

8. The Factories Act, 1948 (No. 63 of 1948) (hereinafter in this Part referred to as the principal Act) shall in its application to the State of Madhya Pradesh be amended in the manner hereinafter provided in this Part.

Amendment of
Central Act No. 63
of 1948 in its
application to the
State of Madhya
Pradesh.

9. In the principal Act,—

Amendment of
Sections 65, 66
and 79.

(i) in Section 65,—

(a) sub-section (2) shall be deleted;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) (a) Notwithstanding anything contained in sections 51, 52, 54 and 56, an adult male worker may be allowed to work in a factory for more than 48 hours in a week subject to fulfilment of following conditions:—

(i) the total number of hours of work in any day shall not exceed twelve;

(ii) the spread over, inclusive of intervals for rest, shall not exceed thirteen hours in any one day;

(iii) the total number of hours of work in any week, including overtime, shall not exceed sixty;

(iv) no worker shall be allowed to work overtime, for more than seven days at a stretch and the total number of hours of overtime work in any quarter shall not exceed one hundred and twenty five;

(v) such overtime work shall not be made compulsory or obligatory for any worker.

(b) The occupier shall maintain information of working hours any overtime work of workers in such manner as may be prescribed.

Explanation.—In this sub-section “quarter” has the same meaning as in sub-section (4) of section 64.”;

(ii) in Section 66,—

(a) in sub-section (1), clause (b) and proviso shall be omitted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The State Government may, by order, specify conditions for ensuring safety of women who are required or allowed to work in any factory or manufacturing process between the hours of 8 P.M. and 6 A.M.”;

(iii) in Section 79, for sub-section (1) and Explanation 1, the following sub-section and Explanation shall be substituted, namely:—

“(1) Every worker who has worked for a period of 180 days or more in a factory during a calender year shall be allowed during the same calendar year, leave

with wages for a number of days calculated at the rate of—

- (i) if an adult, one day for every twenty days of work performed by him during the calendar year;
- (ii) if a child, one day for every fifteen days of work performed by him during the calendar year.

Explanation 1.—For the purpose of this sub-section—

- (a) any days of lay-off, by agreement or contract or as permissible under the standing orders;
- (b) in the case of a female worker, maternity leave for any number of days not exceeding twelve weeks; and
- (c) the leave earned in the year prior to that in which the leave is enjoyed,

shall be deemed to be days on which the worker has worked in a factory for the purpose of computation of the period of 180 days or more.”.

PART VI

AMENDMENT OF THE INDUSTRIAL DISPUTES ACT, 1947

Amendment of Central Act No. 14 of 1947 in its application to the State of Madhya Pradesh.

10. The Industrial Disputes Act, 1947 (No. 14 of 1947) (hereinafter in this Part referred to as the principal Act) shall in its application to the State of Madhya Pradesh be amended in the manner hereinafter provided in this Part.

Amendment of Sections 2A, 25F and 25K.

11. In the principal Act,—

- (i) in Section 2-A, in sub-section (3), for the words “the Labour Court or Tribunal”, the words “the Labour Court or Tribunal or Conciliation Officer” shall be substituted;
- (ii) in Section 25F,—
 - (a) in clause (a), for the words “one month's notice”, the words “three month's notice” shall be substituted;
 - (b) for clause (b), the following clause shall be substituted, namely:—
 - “(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months, or an amount equivalent to his three months' average pay, whichever is more; and”;
- (iii) in Section 25K, in sub-section (1), for the words “one hundred”, the words “three hundred” shall be substituted.

PART VII

AMENDMENT OF THE INTER-STATE MIGRANT WORKMEN (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 1979

Amendment of Central Act No. 30 of 1979 in its application to the State of Madhya Pradesh.

12. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (No. 30 of 1979) (hereinafter in this Part referred to as the principal Act) shall in its application to the State of Madhya Pradesh be amended in the manner hereinafter provided in this Part.

13. In the principal Act, in Section 4, in sub-section (3), for full stop, the colon shall be substituted and thereafter the following proviso shall be added, namely:—

Amendment of Section 4.

“Provided that if no adverse order is passed by the Registering Officer within thirty days from the date of submission of application under sub-section (1), then the registration shall be deemed to be duly granted.”.

PART VIII

AMENDMENT OF THE MOTOR TRANSPORT WORKERS ACT, 1961

14. The Motor Transport Workers Act, 1961 (No. 27 of 1961) (hereinafter in this Part referred to as the principal Act) shall in its application to the State of Madhya Pradesh be amended in the manner hereinafter provided in this Part.

Amendment of Central Act No. 27 of 1961 in its application to the State of Madhya Pradesh.

15. In the principal Act, in Section 3, in sub-section (2), for full stop, the colon shall be substituted and thereafter the following proviso shall be inserted, namely:—

Amendment of Section 3.

"Provided that if no adverse order is passed by the prescribed authority within a period of 30 days from the date of submission of application, then the registration shall be deemed to be duly granted."

PART IX

COMPOSITION OF OFFENCES AND ABATEMENT OF TRIALS UNDER CERTAIN LABOUR LAWS

16.(1) Notwithstanding anything contained in the following Acts, namely :—

Composition of offences under certain Labour laws in the State of Madhya Pradesh.

- (i) Equal Remuneration Act, 1976 (No. 25 of 1976);
- (ii) Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments) Act, 1988 (No. 51 of 1988);
- (iii) Minimum Wages Act, 1948 (No. 11 of 1948);
- (iv) Payment of Wages Act, 1936 (No. 4 of 1936);
- (v) Sales Promotion Employees (Conditions of Service) Act, 1976 (No. 11 of 1976),

an officer authorised by the State Government in this behalf by notification may compound.

- (a) any offence punishable with only fine under these Acts committed for the first time or after expiry of a period of two years of commitment of previous offence (if any), either before or after institution of the prosecution, on realization of such amount of composition fee, as he thinks fit, not exceeding the maximum amount of fine but not less than half of the maximum amount of fine for the offence, or
- (b) any offence punishable with fine and imprisonment up to three months under these Acts committed for the first time, either before or after institution of the prosecution, on realization of composition fee of an amount equivalent to ten times of the maximum fine subject to a minimum of Rs. 10,000 for offences punishable with imprisonment up to one month Rs. 20,000 for offences punishable with imprisonment up to two months or Rs. 30,000 for offences punishable with imprisonment up to three months.

(2) When the offence is so compounded—

- (i) before the institution of the prosecution the offender shall not be liable to prosecution and shall, if in custody, be set at liberty;

- (ii) after the institution of prosecution, the composition shall amount to acquittal of the offender.

PART X

EXEMPTION FROM MAINTAINING MULTIPLE REGISTERS AND SUBMISSION OF MULTIPLE RETURNS

Exemption from maintaining multiple registers and submission of multiple returns under certain Labour Laws in the State of Madhya Pradesh.

17. Notwithstanding anything contained in the provisions of the following Acts, namely :—

- (i) Contract Labour (Regulation and Abolition) Act, 1970 (No. 37 of 1970);
- (ii) Equal Remuneration Act, 1976 (No. 25 of 1976);
- (iii) Factories Act, 1948 (No. 63 of 1948);
- (iv) Industrial Disputes Act, 1947 (No. 14 of 1947);
- (v) Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (No. 30 of 1979);
- (vi) Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments) Act, 1988 (No. 51 of 1988);
- (vii) Maternity Benefit Act, 1961 (No. 53 of 1961);
- (viii) Minimum Wages Act, 1948 (No. 11 of 1948);
- (ix) Motor Transport Workers Act, 1961 (No. 27 of 1961);
- (x) Payment of Bonus Act, 1965 (No. 21 of 1965);
- (xi) Payment of Gratuity Act, 1972 (No. 39 of 1972);
- (xii) Payment of Wages Act, 1936 (No. 4 of 1936);
- (xiii) Sales Promotion Employees (Conditions of Service) Act, 1976 (No. 11 of 1976);

the State Government by order may devise or notify forms for maintaining registers and records and furnishing returns by an employer or establishment in lieu of the forms prescribed under the said Acts and the rules made thereunder:

Provided that the State Government may allow the registers and records to be maintained in computerised or digital formats.

PART XI

MISCELLANEOUS PROVISIONS

Power to make rules.

18. (1) The State Government, subject to the condition of previous publication, may make rules for the purpose of giving effect to the provisions of this Act;

(2) All rules made under this Act shall, as soon as after they are made, be laid on the table of the Legislative Assembly.

19. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by general or special order published in the Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty. **Removal of difficulties.**

(2) Every order made under sub-section (1) shall be laid on the table of the Legislative Assembly.

STATEMENT OF OBJECTS AND REASONS

This Bill is being proposed for making amendments in certain labour laws with the objective of simplifying the procedure and avoiding the duplicity of the provisions in the Acts and for providing the appropriate safeguards in the interest of the workmen.

2. Under sub-section (3) of Section 7 of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (No. 27 of 1996), provisions for registration of establishment is laid down but no time limit is prescribed for issuing such registration and there fore possibilities to keep such applications pending for indefinite period in the concerning office cannot be ruled out. In order to remove such lacuna and maintaining transparency in registration procedure an additional provision is proposed to be added as sub-section (3A), so that the registration under the Act shall be deemed to be granted after prescribed time limit, if no adverse order is passed by the registering officer;

3. (1) In sub-section (1) of Section 3 of the Building and Other Construction Workers Welfare Cess Act, 1996 (No. 28 of 1996), there is a provision of levying cess on the cost of construction incurred by an employer but in absence of any classification regarding what should be the actual cost of construction, assessment of cess is being done by calculating the cost of construction in various (arbitrary) manners by different officers. To remove such difficulties an additional sub-section (1A) of Section 3 is being proposed wherein the cost incurred by an employer on purchase of plant and machinery from outside, not being the part of construction and other such extra costs shall clearly be specified by the Government and will not be the part of cost of construction.

(2) In sub-section (1) of Section 11, the provisions for appeal against the order of the assessing officer is laid down and the procedure is laid down in rule 14 of the Building and Other Construction Workers Welfare Cess Rules, 1998. The procedure therein seems to be complicated as the employer has to deposit the full amount of cess ordered by the assessing officer, even if it is grossly disputed and he has to deposit the appeal fee too. Therefore, in order to remove such procedural problem, the State Government is being empowered to prescribe amendment in procedure of appeal through proposed substitution of sub-section (1) of Section 11 of the Act.

4. In sub-section (2) of Section 7 and sub-section (3) of Section 13 of the Contract labour (Regulation and Abolition) Act, 1970 (No. 37 of 1970), provisions for registration of principal employer and licence for contractors are laid down but no time limit is prescribed for issuing of the same and therefore there is always a possibility of delaying of such application for indefinite period. In order to remove such procedural difficulties and for maintaining transparency in procedures, additional provisions under Section 7 and 13 are being proposed to be added so that the applications are deemed to be granted in 30 days time limit if complete in all respect and no objections are raised during this time period.

5. (1) In sub-section (2) of Section 65 of the Factories Act, 1948 (No. 63 of 1948), powers are vested with the Government and the Chief Inspector for granting any exemption in the periods of overtime work of any worker and the conditions for such overtime work are also laid down. For seeking such permission, every factory has to apply individually and has to undergo a lengthy complicated procedure. For facilitating such employers by way of increasing the overtime period and for enhancing the productivity and the economic conditions of workers, by way of receiving wages for overtime at double rate, the provision for extended working hours and overtime hours and the conditions thereof are being prescribed under sub-section (3) of Section 65, and sub-section (2) of Section 65 is being proposed to be deleted.

This is also being proposed that no worker shall be compelled to do the overtime and the occupier shall have to maintain the record of working hours and overtime in prescribed formats to avoid the misuse of this provisions.

(2) In clause (a) and (b) of sub-section (1) of Section 66, the provisions are laid down about restrictions of work for women in night shifts. This provision has become obsolete in light of the scenario at present, status of women and the awareness among them. For promoting the employment opportunity for women and therefore in order to remove difficulty in night shift working of women while ensuring their safety, the provision for allowing them to work from 8 PM to 6 AM is being proposed in Section 66. Provisions for their safety will also be ensured during night shifts by the State Government.

(3) In sub-section (1) of Section 79, provisions for annual leave with wages are prescribed but that provides annual leave with wages to a worker only after 240 days of completed service that too from next calendar year. To make it more convenient to workers, it is proposed that the worker get the benefit of leave with wages after completing 180 days of service and from the same calendar year by making amendment of Section 79.

6. (1) In Section 2A of the Industrial Disputes Act, 1947 (No. 14 of 1947), no time limit is prescribed for raising personal disputes and sometimes disputes are raised after a lapse of many years which cause difficulties in settlement of such disputes. It is, therefore, proposed that a time limit of three years should also be provided for raising the industrial disputes covered under Section 2A.

(2) Existing Section 25-F provides for one month's notice or wages in lieu of notice for notice period is to be given to the workers before retrenching them. By amending this provision in the interest of the workmen, it is proposed to amend clause (b) of Section 25 F that in case of retrenchment, three months notice and also wages for at least three months be given to the workmen. This amendment would provide much needed financial security to the workmen during the period of transition in case of their retrenchment.

(3) Section 25K provides for applicability of chapter VB of the Act and this chapter is applicable to such industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than "one hundred" workmen were employed on an average per working day for the preceding twelve months. In such establishments, prior permission of the State Government is required to be obtained by the employer before effecting lay off, retrenchment or closure. By amendment it is proposed to increase the number of workmen from 100 to 300, which would help and encourage the employers to employ more number of regular workers on the rolls of establishment and also remove the procedural difficulties for small establishments seeking such permissions.

7. In sub-section (3) of Section 4 of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (No. 30 of 1979), existing provision prescribes the procedure of registration of the establishment, but no time limit is prescribed for issuing such registration that may result into pendency of such applications for indefinite period. Therefore, it is proposed in order to maintain transparency and remove such procedural lacuna, to insert an additional proviso for prescribing time limit of 30 days beyond which the registration shall be deemed to be duly granted if an adverse order is not passed by the registering officer.

8. In sub-section (2) of Section 3 of the Motor Transport Workers Act, 1961 (No. 27 of 1961), existing provision prescribes the procedure of registration of the establishment, but no time limit is prescribed for issuing such registration that may result into pendency of such applications for indefinite period. Therefore, it is proposed in order to maintain transparency and remove such procedural lacuna, to insert an additional proviso for prescribing time limit of 30 days beyond which the registration shall be deemed to be duly granted if an adverse order is not passed by the registering officer.

9. It is observed that under the existing provisions in various labour laws, there is no provision for compounding of offences, resulting in higher number of prosecution cases, that leads also to consumption of precious time of Government officials and the employers as well. For speedy disposal of offences with penalties and imprisonment up to 3 months only and to minimize the number of litigations, provision is being proposed for deciding such cases by way of compounding by the labour department officers in only such Acts wherein the penalty and imprisonment up to only 3 months are provided.

10. In order to avoid unnecessary harassment to industries and commercial establishments and to provide the facility of simplified registers and returns under various labour laws while ensuring a more effective system for compliance with the provisions of labour laws, it is proposed to bring in such provision wherein only smaller and simpler integrated formats of registers, records and returns will be required to be maintained by the employers, and the same would also be allowed to be maintained in computerized or digital format.

11. Hence this Bill.

Bhopal :

Dated the 18th July, 2015.

ANTAR SINGH ARYA

Member-In-Charge.